

AMENDED IN SENATE APRIL 8, 2010

**SENATE BILL**

**No. 1215**

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**Introduced by Senator Price**

February 18, 2010

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An act to add *and repeal* Chapter 10.2 (commencing with Section 4529.25) ~~to~~ of Division 5 of the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1215, as amended, Price. Public contracts: architectural and engineering services firms: prequalification lists.

The California Constitution provides that state and other governmental entities have the choice and authority to contract with qualified private entities for architectural and engineering services, as defined. Existing law also requires that the choice and authority to contract extend to all phases of project development, including permitting, environmental studies, rights-of-way services, design phase services, and construction phase services.

This bill would, *at the election of the Department of Transportation, until January 1, 2014*, authorize the ~~Department of Transportation~~ department to establish prequalified lists of architectural and engineering services firms. The bill would ~~authorize~~ *require* the department, for each category of architectural and engineering service, to establish separate lists for small, medium, and large projects by geographical area. The bill would require the department to comply with certain requirements relating to the advertisement and award of contracts in the event the department utilizes the prequalification list, *and would require, on or before January 1, 2014, the department to submit a report*

to the Legislature containing a description of any contract that is awarded.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 10.2 (commencing with Section 4529.25) is added to Division 5 of the Government Code, to read:

CHAPTER 10.2. PREQUALIFICATION LISTS

4529.25. At the election of the Department of Transportation, contracts for engineering, architectural, environmental *planning*, landscape architectural, or land surveying services ~~may~~ *shall* be advertised and awarded in accordance with this chapter.

4529.26. For purposes of this chapter, the following terms shall have the following meanings:

(a) “Architectural and engineering services” shall have the same meaning as in Section 4529.10.

(b) “Prequalified list” means a list of architectural and engineering services firms that possess the qualifications established by the Department of Transportation to perform specific types of architectural and engineering services with each firm ranked in order of qualifications.

(c) “*Price schedule*” means an agreement between the Department of Transportation and a firm pursuant to which the firm agrees to accept orders from the department for a service at a set price for a specified period of time, but which does not oblige the department to purchase the service from the firm.

(d) “*Small projects*” means contracts that have an estimated value of greater than five thousand dollars (\$5,000), but less than five hundred thousand dollars (\$500,000).

(e) “*Medium projects*” means contracts that have an estimated value of five hundred thousand dollars (\$500,000) or more, but less than five million dollars (\$5,000,000).

(f) “*Large projects*” means contracts that have an estimated value of five million dollars (\$5,000,000) or more.

1 4529.27. The Department of Transportation ~~may~~ *shall* establish  
2 prequalified lists of architectural and engineering services firms  
3 in accordance with the following process:

4 (a) (1) For each type of architectural and engineering service  
5 for which the department elects to use this process for advertising  
6 and awarding contracts, the department shall request statements  
7 of qualifications from interested firms *and also may request price*  
8 *schedules*. The request for statements of qualifications *and price*  
9 *schedules* shall be announced statewide throughout the California  
10 State Contracts Register.

11 (2) Each announcement shall describe the general scope of  
12 services to be provided within each generic project category, be  
13 defined such that each specific project to be awarded within that  
14 generic project category shall be substantially similar to all other  
15 projects within that generic project category, shall be the same  
16 size, range, and geographical area, and shall require substantially  
17 similar skills and magnitude of professional effort as every other  
18 project within that generic project category.

19 (b) For each category for architectural and engineering services,  
20 the department ~~may~~ *shall* establish separate lists for small, medium,  
21 and large projects by geographical area to provide opportunities  
22 for various-sized firms. A firm can only be on one list for each  
23 category per geographic area.

24 (c) The department shall evaluate the statements of qualifications  
25 and performance data, ~~and a list of the most~~ *develop a list of*  
26 *qualified firms that meet the criteria established and published by*  
27 *the department shall be developed*. Discussions shall be held  
28 regarding each firm's qualifications with all listed firms. The firms  
29 shall then be ranked according to each firm's qualifications and  
30 the evaluation criteria established and published by the department.

31 (d) (1) The department shall maintain prequalified lists for not  
32 more than two years. Each prequalified list shall include no less  
33 than three firms. The number of firms placed on a list shall be  
34 based on the anticipated workload during the life of the list. Once  
35 ~~a contract is awarded, another contract within the same geographic~~  
36 ~~area may not be let until 90 percent of the current contract dollars~~  
37 ~~have been expended.~~

38 (2) ~~During the term of the prequalified lists, as specific services~~  
39 ~~are identified as being eligible for contracting, the department shall~~  
40 ~~contact the firm on the top of the appropriate prequalified list to~~

1 determine if that firm has sufficient staff and is available for  
2 performance of the services. If that firm is not available, the  
3 department shall continue to contact firms on the prequalified list,  
4 in order of rank, until a firm that is available is identified.

5 (e) The department shall negotiate a contract for the project or  
6 services within the identified firm, at an amount that it determines  
7 is fair and reasonable. If the department is unable to negotiate a  
8 satisfactory contract with the identified firm, negotiations with  
9 that firm shall be terminated and negotiations shall be undertaken  
10 with the next ranked firm that is available for performance. If a  
11 list is developed, another list of the same category and contract  
12 size within the same geographic area may not be developed until  
13 90 percent of the anticipated workload has been contracted or two  
14 years has expired.

15 (2) During the term of the prequalified lists, as specific services  
16 are identified as being eligible for contracting, the department  
17 shall contact the top 3 firms on the appropriate prequalified list  
18 to determine if those firms have teams and are available for  
19 performance of the services. If none of the firms is available, the  
20 department shall continue to contact firms on the prequalified list,  
21 in order of rank, until a firm is identified that has a team available.

22 (e) The department shall negotiate a contract for the project or  
23 services with the firm that has the top ranked team at an amount  
24 that it determines is fair and reasonable. If the department is  
25 unable to negotiate a satisfactory contract with the identified firm,  
26 negotiations with that firm shall be terminated and negotiations  
27 shall be undertaken with the next firm that has the top ranked team.  
28 If a satisfactory contract cannot be negotiated with the second  
29 identified firm, negotiations shall be terminated and the negotiation  
30 process shall be continued with the remaining firms, in order of  
31 their *team* qualifications, until a satisfactory contract is negotiated.

32 (f) Once a satisfactory contract is negotiated and awarded to a  
33 firm from the prequalified list, that firm shall be moved to the  
34 bottom of the prequalified list. If the department is unable to  
35 negotiate a satisfactory contract with a firm on two separate  
36 occasions, that firm shall be removed from the prequalified list.

37 (g) Notwithstanding any other provision of this chapter, the  
38 Department of Transportation may award contracts that have an  
39 estimated value of greater than five thousand dollars (\$5,000), but  
40 less than two hundred fifty thousand dollars (\$250,000), to certified

1 *small businesses, including microbusinesses, or to disabled veteran*  
2 *business enterprises, in accordance with Section 14838.5.*

3 *4529.28. (a) On or before January 1, 2014, the Department*  
4 *of Transportation shall submit a report to the Legislature*  
5 *containing a description of any contract that is awarded in*  
6 *accordance with this chapter. The report shall include, but shall*  
7 *not be limited to, all of the following information:*

8 *(1) The type of services for which the department elected to use*  
9 *the process described in Section 4529.27.*

10 *(2) The number of small, medium, and large projects.*

11 *(3) The firm that was awarded the project.*

12 *(4) An assessment of the prequalification process and criteria.*

13 *(b) (1) The requirement for submitting a report imposed under*  
14 *subdivision (a) is inoperative on January 1, 2014, pursuant to*  
15 *Section 10231.5.*

16 *(2) A report to be submitted pursuant to subdivision (a) shall*  
17 *be submitted in compliance with Section 9795.*

18 *(c) This chapter shall remain in effect only until January 1,*  
19 *2014, and as of that date is repealed, unless a later enacted statute,*  
20 *that is enacted before January 1, 2014, deletes or extends that*  
21 *date.*